

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOANN SCOTT,

Plaintiff,

v.

KILOLO KIJAKAZI,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-00736-HBK

ORDER GRANTING PARTIES' JOINT
MOTION TO REMAND UNDER SENTENCE
FOUR OF 42 U.S.C. § 405(g), REVERSING
FINAL DECISION AND REMANDING
CASE¹

(Doc. No. 13)

Pending before the Court is the parties' Joint Motion to Remand filed November 17, 2022. (Doc. No. 13). Plaintiff Joann Scott and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under the Equal Access to Justice Act and calculating deadline using date of final judgment). The

¹ Both parties have consented to the jurisdiction of a magistrate judge, in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 11).

1 *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
2 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
3 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
4 resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

5 The Court grants the parties’ motion to remand under sentence four and reverses the
6 Commissioner’s final decision. Upon remand, the Administrative Law Judge should re-evaluate
7 the evidence of record and issue a new decision.

8 Accordingly, it is **ORDERED**:

9 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court REVERSES the
10 Commissioner’s decision and REMANDS this case back to the Commissioner of Social Security
11 for further proceedings consistent with this Order.

12 2. An application for attorney fees may be filed by separate motion.

13 3. The Clerk shall enter judgment in favor of Plaintiff, terminate any pending motions and
14 deadlines, and close this case.

15
16 Dated: November 18, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE